

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	CRIMINAL ACTION NO.
v.	)	2:19cr134-MHT
	)	(WO)
BOBBY TURNER	)	

OPINION AND ORDER

This case is before the court on defendant Bobby Turner's motion to continue the trial date. For the reasons set forth below, the court finds that Turner's upcoming jury trial, now set for January 6, 2020, should be continued pursuant to 18 U.S.C. § 3161(h).

While the granting of a continuance is left to the sound discretion of the trial judge, *see United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the

defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Turner in a speedy trial. Turner has filed a motion to suppress and is awaiting a hearing on the motion. Defense counsel has issued subpoenas for information "imperative to Mr. Turner's defense" in preparation for the hearing and has not yet

received responses. Motion to Continue Trial (doc. no. 35). There is no indication of a lack of diligence on defense counsel's part. A continuance is warranted to afford defense counsel reasonable time for preparation. Furthermore, the government does not oppose a continuance.

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Accordingly, it is ORDERED as follows:

(1) The motion to continue trial (doc. no. 35) is granted.

(2) The jury selection and trial for defendant Bobby Turner, now set for January 6, 2020, are reset for February 24, 2020, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

The United States Magistrate Judge shall conduct a pretrial conference in advance of the February 24, 2020 trial term, and shall reset the deadline for entering a

change of plea and any other appropriate deadlines.

DONE, this the 20th day of November, 2019.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE